

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER QUALITY
MAY 19, 2020**

ITEM 5

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING AMENDMENTS TO THE CALIFORNIA UNDERGROUND STORAGE TANK REGULATIONS TO MODIFY LOCAL AGENCY REPORTING REQUIREMENTS, AND FORMS USED BY THE REGULATED COMMUNITY

DISCUSSION

The State Water Resources Control Board Division of Water Quality Underground Storage Tank (UST) Leak Prevention Staff (Staff) proposes to amend California Code of Regulations, title 23, division 3, chapter 16 (California UST Regulations), article 3, sections 2713 and 2716, and Appendices VI, VII, VIII, IX, XI, and XIII (proposed amendments).

The proposed amendments to the California UST Regulations section 2713 update the semiannual UST performance measures that local agencies must provide to the State Water Board (local UST performance measures). The local UST performance measures that the State Water Board collects from local agencies is reported to the United States Environmental Protection Agency (U.S. EPA) under the federal Leaking Underground Storage Tank Trust Fund Corrective Action Cooperation Agreement for California and the State Water Board Cooperative Agreement Work Plan (federal UST performance measures). In addition to these federal UST performance measures, the State Water Board must report compliance inspection data to U.S. EPA pursuant to the Federal Energy Policy Act of 2005.

The proposed regulations also add a new requirement that local agencies provide compliance inspection data through the California Environmental Reporting System (CERS), the statewide web-based system used to collect and report hazardous material related data. Finally, the proposed regulations simplify the local agency reporting requirement regarding red tags issued as a result of noncompliance.

Proposed amendments to the California UST Regulations, section 2716 will clarify the corrective actions that must be reported on the “Underground Storage Tank Designated Underground Storage Tank Operator Visual Inspection Report” and the UST owner or operator signature requirement. In response to comments received during the 45-day comment period, the time required for signature from 48 hours is extended to 72 hours in consideration of the large number of facilities unstaffed over weekends. One corresponding modification to the signatory statement is proposed on the “Underground Storage Tank Designated Underground Storage Tank Operator Visual Inspection Report” (Appendix XIII) requiring the signature of the UST Owner or Operator within 72 hours of the visual inspection.

Several additional proposed amendments to forms contained in the appendices of the California UST Regulations used for reporting test and inspection results are made to clarify reporting requirements. These forms were added to the California UST Regulations in 2018 for consistency in reporting and to simplify the reporting process. Additional proposals include amendments the “Underground Storage Tank Monitoring System Certification Form” (Appendix VI) and the “Underground Storage Tank Secondary Containment Testing Report Form” (Appendix VII) to remove the interstitial test reporting requirement. There is no separate statutory or regulatory requirement to conduct this communication testing and it has been reported to State Water Board staff that this testing is impossible or infeasible on many existing UST systems.

In addition, the “Underground Storage Tank Spill Container Testing Report Form” (Appendix VIII) and the “Underground Storage Tank Overfill Prevention Equipment Inspection Report Form” (Appendix IX) include amendments that require the service technician provide the expiration date of the technician’s training and certification for spill container testing and performing the overfill equipment inspection, respectively. This addition is necessary to ensure compliance with training and certification requirements and is consistent with all other forms that require service technician information in the California UST Regulations.

Finally, in response to comments received during the 45-day comment period, significant revisions were made to format of all of the forms included in this rulemaking for the purpose of improving accessibility while enhancing ease of use for all stakeholders.

The 45-day public notice period ended on December 17, 2019, and the 15-day public notice is expected to end on May 6, 2020. Responses to all timely comments received on the proposed regulations will be contained in the Final Statement of Reasons. No public hearing is scheduled, and no member of the public has requested one.

POLICY ISSUE

State Water Board adoption of the proposed resolution approving the proposed regulations and authorizing the Executive Director to transmit the regulations to the Office of Administrative Law.

FISCAL IMPACT

None.

REGIONAL BOARD IMPACT

There is no impact to the Regional Water Quality Control Boards or Division of Drinking Water District Offices.

HUMAN RIGHT TO WATER ANALYSIS

The actions proposed under this item are consistent with the established policy of the State recognizing the human right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes (human right to water; Water Code section 106.3). The proposed actions are also consistent with [Resolution No. 2016-0010](#), in which the State Water Board adopted the human right to water as a core value and top priority. As directed by the State Water Board in Resolution No. 2016-0010, staff has determined that the proposed actions support the human right to water by reducing the risk of releases of hazardous substances to California's water resources and drinking water.

STAFF RECOMMENDATION

Staff recommends that the State Water Board adopt the proposed resolution approving the proposed regulations and authorizing the Executive Director to transmit the regulations to the Office of Administrative Law.

State Water Board action on this item will assist the Water Boards in reaching Goal 6 of the Strategic Plan Update 2008-2012. Enhance consistency across the Water Boards, on an ongoing basis, to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies, and procedures. In particular, if these amendments are approved UST owners and operators will not incur unnecessary construction costs to meet testing requirements removed by these amendments. This item also deletes an inoperative section of the California UST Regulations to avoid any confusion among the regulated community and makes the forms used for reporting accessible while enhancing ease of use for all stakeholders.